

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

: **AMENDED PROTECTIVE ORDER**

- v. -

:

VINCENT ESPOSITO,  
STEVEN ARENA,  
FRANK GIOVINCO,  
FRANK COGNETTA, and  
VINCENT D'ACUNTO JR.,

: 18 Cr. 14 (VM)

:

:

Defendants.

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DATE FILED: 6/1/18

WHEREAS the Government intends to produce to VINCENT ESPOSITO, STEVEN ARENA, FRANK GIOVINCO, FRANK COGNETTA, and VINCENT D'ACUNTO JR., the defendants, certain discovery materials pursuant to Federal Rule of Criminal Procedure 16 ("Rule 16"), Title 18, United States Code, Section 3500, *Brady v. Maryland*, and/or *United States v. Giglio*, which contain and/or reflect sensitive material concerning victims and witnesses; ongoing law enforcement investigations, personal identification information (including but not limited to names, social security numbers, dates of birth, home addresses, telephone numbers, and bank account and other financial information); contents derived from emails, cellphones, computers, and other sources belonging to co-defendants and alleged co-conspirators; and/or union and insurance records

relating to uncharged persons;

WHEREAS pursuant to Rule 16(d)(1) and Title 18, United States Code, Section 3771, the Government desires to protect the confidentiality of the sensitive material concerning victims and witnesses, ongoing law enforcement investigations, and/or personal identification information contained in the materials it produces; and for good cause shown;

IT IS HEREBY ORDERED:

1. Discovery material produced by the Government to the defendants in this action that contains and/or reflects sensitive material concerning victims and witnesses; ongoing law enforcement investigations, personal identification information (including but not limited to names, social security numbers, dates of birth, home addresses, telephone numbers, and bank account and other financial information); contents derived from emails, cellphones, computers, and other sources belonging to co-defendants and alleged co-conspirators; and/or union and insurance records relating to uncharged persons -- whether in paper or electronic form -- is deemed "Confidential Material." The Government will notify defense counsel of which materials contain "Confidential Material."

2. Confidential Material that is designated "Confidential" and that is disclosed to either the defendants,

or to their counsel, during the course of proceedings in this action:

(a) shall be used by the defendants, their counsel, or Designated Persons to whom Confidential Material is disclosed pursuant to paragraph 2(e) only for purposes of this action;

(b) shall be kept in the sole possession of the defendants, their counsel, or Designated Persons to whom Confidential Material is disclosed pursuant to paragraph 2(e);

(c) shall only be reviewed or maintained by the defendants outside the presence of their counsel if the defendant is restricted to home detention or incarceration, and under those circumstances, shall be reviewed and maintained exclusively at the defendant's home on laptop computers specially equipped by the Government to have no wireless or network capability, or any other capability to copy or transfer materials to other individuals or electronic devices, and shall not be copied or otherwise recorded by the defendants;

(d) shall not be disclosed in any form by the defendants or their counsel except as set forth in paragraph 2(e) below;

(e) may be disclosed only by the defendants' counsel and only to the following persons (hereinafter

"Designated Persons"):

- (i) investigative, secretarial, clerical, paralegal, and student personnel employed full-time or part-time by the defendants' counsel;
- (ii) independent expert witnesses, investigators, or advisors retained by the defendants or on their behalf in connection with this action; and
- (iii) such other persons as hereafter may be authorized by the Court upon a motion by the defendants; and

(f) shall be either (i) returned to the Government following the conclusion of this case, including any appeals, together with any and all copies thereof, or (ii) destroyed together with any and all copies thereof, with the defendants' counsel verifying in writing to the Government that such destruction has taken place.

3. Confidential Material that is designated "Highly Confidential" and that is disclosed to either the defendants, or to their counsel, during the course of proceedings in this action:

(a) shall be used by the defendants, their counsel, or Designated Persons to whom Highly Confidential Material is disclosed pursuant to paragraph 3(f) only for purposes of this action;

(b) shall be kept in the sole possession of the

defendants' counsel or Designated Persons to whom Highly Confidential Material is disclosed pursuant to paragraph 3(f);

(c) shall not be reviewed or maintained by the defendants outside the presence of their counsel;

(d) shall not be copied or otherwise recorded by the defendants;

(e) shall not be disclosed in any form by the defendants or their counsel except as set forth in paragraph 3(f) below;

(f) may be disclosed only by the defendants' counsel and only to Designated Persons.

(g) shall be either (i) returned to the Government following the conclusion of this case, including any appeals, together with any and all copies thereof, or (ii) destroyed together with any and all copies thereof, with the defendants' counsel verifying in writing to the Government that such destruction has taken place.

4. The defendants and their counsel shall provide a copy of this Order to Designated Persons to whom Confidential or Highly Confidential Material is disclosed pursuant to paragraph 2(e) and 3(f). Designated Persons shall be subject to the terms of this Order.

5. The defendants may keep in their possession .

documents produced by the Government that are not designated as Confidential or Highly Confidential Material, including versions of documents designated as Confidential or Highly Confidential Material that the Government has redacted to remove any sensitive material concerning ongoing law enforcement investigations and personal identification information.

6. The provisions of this Order shall not be construed as preventing the disclosure of any information in any motion, hearing, trial, or sentencing proceeding held in this action, or to any judge or magistrate of this Court for purposes of this action. However, information contained in Confidential or Highly Confidential Material shall be filed under seal or with appropriate redactions in any publicly filed document.

IT IS SO ORDERED.

Dated: New York, New York  
31 May, 2018



THE HONORABLE VICTOR MARRERO  
UNITED STATES DISTRICT JUDGE